

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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|---|----------|--|
| ----- | X | |
| EVENCIO HERNANDEZ and MARIO | : | 2007 CV 11340 (LAK) |
| GALINDO, Individually and on Behalf of All | : | |
| Other Persons Similarly Situated, | : | |
| | : | |
| Plaintiffs, | : | |
| | : | <u>ANSWER & AFFIRMATIVE</u> |
| -against- | : | <u>DEFENSES</u> |
| | : | |
| 195 CLAREMONT FOOD INC. d/b/a | : | |
| COLUMBIA DELI, a New York corporation, | : | |
| | : | |
| Defendant. | : | |
| | : | |
| ----- | X | |

Defendant 195 Claremont Food, Inc. d/b/a Columbia Deli, by and through its undersigned counsel, responds to Plaintiffs' Complaint and Jury Demand, dated December 12, 2007, as follows:

1. Denies the allegations contained in paragraph 1 of the Complaint.
2. Denies the allegations contained in paragraph 2 of the Complaint.
3. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegation contained in paragraph 3 of the Complaint.
4. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegation contained in paragraph 4 of the Complaint.
5. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegation contained in paragraph 5 of the Complaint.
6. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegation contained in paragraph 6 of the Complaint.
7. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegation contained in paragraph 7 of the Complaint.

8. Admits the allegations contained in paragraph 8 of the Complaint.

9. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegation contained in paragraph 9 of the Complaint.

10. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegation contained in paragraph 10 of the Complaint.

11. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegation contained in paragraph 11 of the Complaint.

12. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegation contained in paragraph 12 of the Complaint.

13. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegation contained in paragraph 13 of the Complaint.

14. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegation contained in paragraph 14 of the Complaint.

15. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegation contained in paragraph 15 of the Complaint, except admits that Mario Galindo used to work at Columbia Deli.

16. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegation contained in paragraph 16 of the Complaint, except admits that there was a person named Jorge Hernandez who used to work at Columbia Deli.

17. Denies the allegations contained in paragraph 17 of the Complaint.

18. Denies the allegations contained in paragraph 18 of the Complaint.

19. Denies the allegations contained in paragraph 19 of the Complaint.

20. Denies the allegations contained in paragraph 20 of the Complaint.

21. Denies the allegations contained in paragraph 21 of the Complaint.

22. Defendant incorporates herein its answers to paragraphs 1 through 21.

23. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegation contained in paragraph 23 of the Complaint.

24. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegation contained in paragraph 24 of the Complaint.

25. Admits the allegations contained in paragraph 25 of the Complaint.

26. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegation contained in paragraph 26 of the Complaint.

27. Denies the allegations contained in paragraph 27 of the Complaint.

28. Denies the allegations contained in paragraph 28 of the Complaint.

29. Denies the allegations contained in paragraph 29 of the Complaint.

30. Denies the allegations contained in paragraph 30 of the Complaint.

31. Denies the allegations contained in paragraph 31 of the Complaint.

32. Denies the allegations contained in paragraph 32 of the Complaint.

33. Defendant incorporates herein its answers to paragraphs 1 through 32.

34. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegation contained in paragraph 34 of the Complaint.

35. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegation contained in paragraph 35 of the Complaint.

36. Denies the allegations contained in paragraph 36 of the Complaint.

37. Denies the allegations contained in paragraph 37 of the Complaint.

38. Denies the allegations contained in paragraph 38 of the Complaint.

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state a claim upon which a relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred by the statute of limitations.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs are not covered by the FLSA because they are managers or owners of the Defendant.

FOURTH AFFIRMATIVE DEFENSE

The Court does not have subject matter jurisdiction over the Complaint because Plaintiffs are exempt from coverage of FLSA.

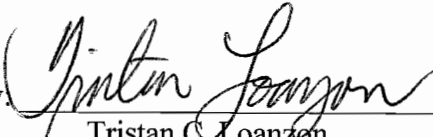
FIFTH AFFIRMATIVE DEFENSE

The Court does not have subject matter jurisdiction over Plaintiffs' claims.

WHEREFORE, Defendant respectfully requests that the Court enter judgment in this action dismissing the Complaint against Defendant, granting attorney's fees, costs, and disbursements incurred by Defendant in defending this action, and for such other relief the Court deems proper.

Dated: New York, New York
February 12, 2008

LOANZON LAW FIRM P.C.

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